IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4472 OF 2005

Mr.Rais Razzak Etwari ..Applicant

Vs.

Mukund Vishwanath Joshi
& Anr. ..Respondents

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Ms.Shraddha Y.Mohite, Advocate for Applicant
Mr.M.S.Mhambaray, A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : JULY 18,2005

P.C.

1. Heard both sides.

2. The applicant has been convicted under Section 420 r.w. 34 of IPC by the learned Addl. Chief Metropolitan Magistrate, 4th Court, Girgaum, Mumbai in Case No. 3497/S/2003 (3911/S/2002). The applicant was sentenced to S.I. for six months and to pay a fine of Rs.50,000/- indefault S.I. for three months.

3. Being aggrieved by the said judgment and order, the applicant preferred Cri.Appeal No. 301 of 2005 which is pending before the Sessions Court at Mumbai. The said appeal has been admitted. The applicant had prayed for suspension of fine amount of Rs.50,000/-. However, the said prayer came to be rejected. It is stated by the learned advocate for the applicant that Rs.5000/- has been deposited towards the fine amount as directed by the learned Metropolitan Magistrate by order dated 20.6.2005. However, the prayer for suspension of the order directing depositing of the remaining amount of fine was rejected.

4. The learned advocate for the applicant has submitted that the applicant is Carpenter by profession and it is not possible for him to pay amount of Rs.50,000/-. She has further pointed out that originally there were three accused in the said case. One of them died during the pendency of the trial. Thus, in such case, she has prayed that the order directing depositing of fine amount of Rs.50,000/- may be suspended. I am not inclined to

suspend the order directing payment of fine amount entirely, however, I am inclined to reduce the said amount to Rs.12,500/-. Out of the said amount, Rs.5000/- has already been deposited. The applicant to deposit an additional amount of Rs.7,500/-.

5. In the order dated 4.7.2005 the learned Sessions Judge has directed that bail application may be considered after depositing the fine amount. It is directed that on the applicant depositing part of the fine amount as indicated above i.e. Rs.12,500/-, the bail application of the applicant be considered. The said amount of fine to be deposited by 10th August, 2005.

6. Application is disposed of.

[V.K.TAHILRAMANI,J.]